

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

SERVICE EMPLOYEES INTERNATIONAL)	
UNION, HEALTHCARE PENNSYLVANIA,)	
CTW, CLC,)	
)	
Petitioner,)	
)	Case No. 18-1237
v.)	
)	
NATIONAL LABOR RELATIONS BOARD,)	
)	
Respondent.)	
)	
)	
)	

PETITIONER’S STATEMENT OF ISSUES TO BE RAISED

1. Whether the majority of the National Labor Relations Board (“the Board” or “NLRB”) departed from precedent or otherwise erred in its Decision and Order issued on December 11, 2017, reported at 365 NLRB No. 153, when it affirmed the supplemental decision of the Administrative Law Judge (“ALJ”) to dismiss a single-employer allegation against UPMC, based on Respondent UPMC’s guarantee of the performance of its subsidiary UPMC Presbyterian Shadyside of any remedy ultimately ordered against the subsidiary.

2. Whether the majority of the NLRB departed from precedent or otherwise erred in its Decision and Order issued on December 11, 2017, when it overruled *United States Postal Service*, 364 NLRB No. 116 (2016).

3. Whether the majority of the NLRB departed from precedent or otherwise erred in its Decision and Order issued on December 11, 2017, when it affirmed the ALJ's decision, based on the analysis in *Independent Stave*, 287 NLRB 740 (1987).

4. Whether the majority of the NLRB departed from precedent or otherwise erred in its Decision and Order issued on December 11, 2017, when it approved a settlement over the objections of the General Counsel and charging party, and its decision effectively limited the General Counsel's ability to determine which allegations to prosecute in unfair labor practice litigation.

5. Whether the majority of the Board erred in its Decision and Order issued on August 27, 2018, reported at 366 NLRB No. 185, when it failed to provide a full and adequate remedy for the unfair labor practices it found had occurred, by virtue of the Board majority's decision on December 11, 2017, dismissing the single employer allegations based on UPMC's offer to guarantee the performance of any remedies ordered against its subsidiary.

6. Whether the majority of the Board erred in its Decision and Order issued on August 27, 2018, by severing and retaining certain allegations from the

case for subsequent consideration by the Board, where the severed allegations include the ALJ's findings that Respondents were alleged to have violated Section 8(a)(1) of the National Labor Relations Act, 29 U.S.C. §158(a)(1) (the "Act"), by denying nonemployee union organizers access to the hospital cafeteria, engaging in surveillance of employees talking to union organizers in the cafeteria, and requiring employees in the cafeteria talking to union organizers to produce identification.

7. Whether the Board departed from precedent or otherwise erred in its Decision and Order issued on August 27, 2018, by overruling the findings and conclusions of the ALJ that UPMC Presbyterian Shadyside violated Sections 8(a)(1) and (3) of the Act, 29 U.S.C. §158(a)(1) and (3), in its treatment of Felicia Penn.

Dated: October 9, 2018

Respectfully submitted,

/s/ Elizabeth (Betty) Grdina
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CERTIFICATE OF SERVICE

I, one of the attorneys for Petitioner Service Employees International Union Healthcare Pennsylvania, CTW, CLC, hereby certify that that on this 9th day of October 2018, the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users, or if they are not, by serving a true and correct copy at the address listed below:

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Dated at Washington, DC, this 9th day of October 2018.